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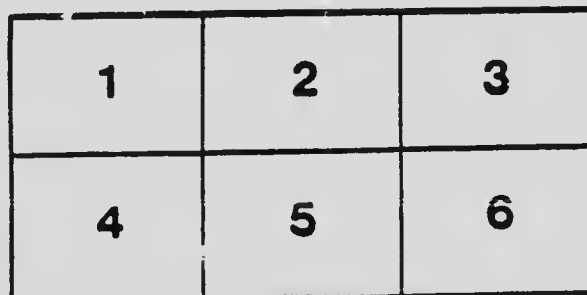
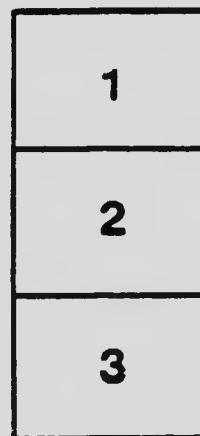
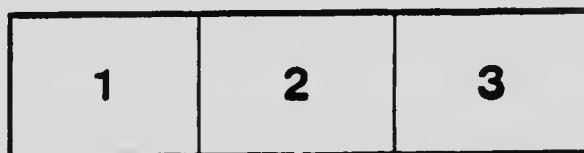
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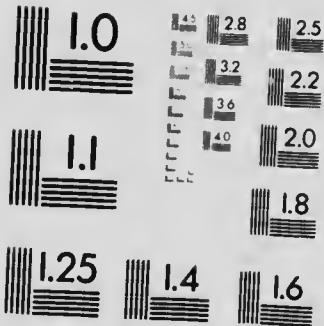
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MEMORANDUM

RESPECTING

Claims of British Columbia

FOR BETTER TERMS

24 p. 1. 10.



MEMORANDUM OF CLAIM.

The case of the Province in respect to the claims proposed to be investigated by His Majesty's Commission of Enquiry is divided into two main divisions.

One is based upon considerations which depend largely upon historical evidence and looks to a readjustment of the arrangements by which certain lands were conceded to the Dominion in respect to the building of the Canadian Pacific and Esquimalt and Nanaimo railways.

The other has reference to the claims arising out of the peculiar physical conditions of the Province on account of which partial allowance was made in the general readjustment of financial relations as the result of the interprovincial conference at Ottawa in 1906.

The historical aspect of the case rests upon the peculiar circumstances and political conditions affecting the entry of British Columbia into Confederation, and upon the still more unusual course of events following upon that event from 1871 up to the year 1885, during which time the completion of the Terms of Union and the construction of the Canadian Pacific Railway were among the principal issues of Canadian political discussion. The main result of such was highly detrimental to the interests of the Province of British Columbia.

The second branch of the case rests upon the physical configuration of the Province which renders local administration and development exceptionally expensive and difficult, and in a ratio of great disparity as compared with those of other provinces.

I.—HISTORICAL.

For a proper knowledge of the case, it is necessary to consider the conditions which existed at the time British Columbia entered Confederation, and the mental attitude in which the Terms of Union between the Province and the Dominion were framed. Public sentiment, as represented in Parliament, was prejudicial to more favourable terms being granted. A large section of Canada was utterly opposed to union with British Columbia on the terms under which the construction of a transcontinental railway was rendered obligatory. It was only upon grounds of large public policy of a national character—the rounding out of Confederation—that their adoption was justified. It was almost universally conceded that the Province, physically handicapped as it was, would not pay its way in Confederation, and it was strongly contended that the construction of the Canadian Pacific Railway—an essential demand of British Columbia—was too great a sacrifice on the part of the Dominion, and that the railway when built would prove unremunerative. Consequently, the financial terms conceded to British Columbia were the least favourable possible, and without any adequate knowledge of its financial requirements.

A similar attitude towards British Columbia was maintained as long subsequently as 1871, when the Settlement Act was passed, whereby the outstanding

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differences between the two governments were finally adjusted. By means of the Settlement Act, the Province, tired of delays and wearied with fruitless negotiations, agreed to transfer 3,500,000 acres of the best land of the province, in lieu of net expenditures on the part of the Dominion, amounting in all to about \$1,250,000. These lands, worth now at the lowest valuation \$35,000,000, together with 2,000,000 acres of land on Vancouver Island, including all their valuations—worth at least \$2,000,000—were parted with to secure a railway from Esquimalt to Nanaimo, costing less than \$3,000,000, which under the terms of the Cornarvon Award were to have been built by the Dominion without cost to the Province. The value of such concessions was not then foreseen. The treaty of 1871, as amended in 1881 was made, by both parties to it, in misapprehension of the possibilities of British Columbia and the development to accrue from the building of the Canadian Pacific Railway.

The subsequent course of events has shown that British Columbia has not only paid its way in Confederation, but has contributed in forty years about \$35,000,000 in excess of what it has cost the Dominion; that the Canadian Pacific Railway has been instrumental more than any other factor in raising up Canada to the proud position which it occupies today, with benefits vastly greater to the rest of Canada than to British Columbia; and that the Settlement Act gave a realizable asset to the Dominion thirty times greater than the expenditure which it involved.

The Government of British Columbia submits as incontrovertible that the original and amended Terms of Union having been based upon assumptions which have proved groundless, and that as the very opposite of what had been anticipated has transpired, it is incumbent upon the Dominion, morally and constitutionally, in the light of developments which have actually taken place, to now substitute fairer terms for those perforce made in anticipation of what did not happen.

This contention is strictly in line with what was promised in the resolutions of the Quebec Conference of 1867, to the effect that at the time of the passing of the British North America Act, "it was impossible to foresee the development of the Dominion" and to provide in an unalterable and fixed way for the requirements of the various local governments for all time to come. It was much less possible with respect to British Columbia which, in 1871 and for some years subsequently, was almost wholly undeveloped, and about which practically nothing was known in eastern Canada. All the discussion of whatever character bearing upon the relations of the Province and the Dominion and the construction of the Canadian Pacific Railway for fifteen years was based upon assumptions wholly unfounded and incompatible with actual development. It was impossible to predicate as to the future in eastern Canada, where there had been settled conditions and very considerable development, how much less possible to predicate the future of a country west of the Great Lakes, which was at that time less a *terra incognita* and at a time when the larger problems of Oriental peace and Imperial trade routes were still outside of the pale of practical politics.

When the Terms of Union with British Columbia, which involved the construction of an interoceanic railway within twelve years from the date of Union, were entered into, they were justified by the government and their supporters on account of the following considerations, all of which were material:

1. The rounding out of Confederation, so as to include the whole of the British North American possessions in one Dominion.

2. To open and develop the fertile lands in the prairies of the Middle West, so as to promote population and provide an outlet for the commerce of eastern Canada.
3. To secure for Canada a port or ports on the Pacific in order to reach the Orient.
4. The statesmen of Canada and Great Britain were incited to greater zeal in this behalf on account of a danger, which appeared to them imminent, of British Columbia being annexed to the United States.

On the other hand, in eastern Canada the general attitude of mind in respect to British Columbia and the railway undertaking—and that attitude of mind influenced the government throughout the entire course of the negotiations—was to the following effect:—

- (a.) That the Terms of Union with British Columbia, irrespective of the railway, were unfair and unjust to the other provinces.
- (b.) That the railway, having been incorporated in the Terms of Union—as the price of British Columbia's admission—was for the especial benefit of the people of British Columbia, who numbered less than 10,000 whites.
- (c.) That the railway was beyond the financial resources of Canada, and that the building of the railway in ten years to connect with British Columbia was a physical impossibility.
- (d.) That the railway would impose an almost intolerable burden on the eastern Provinces, if, indeed, it would not bankrupt the whole of Canada.
- (e.) That British Columbia, on account of its mountainous conditions, extent and isolation, would impose an additional burden on Canada, and would for all time to come remain a drag on the Dominion, costing each year much more than the revenue to be derived from it.
- (f.) That the railway, when built, would not for many years to come pay the cost of operation.

The bringing of British Columbia into Confederation was not an act of volition on the part of its people. It was part of a programme decided upon by the Imperial authorities, and cordially endorsed and participated in by the late Sir John Macdonald. The programme included, as well, the extinguishment of the Hudson's Bay Company's title to Prince Rupert's Land and the erection of a province there.

Thus, in every sense, the inclusion of British Columbia and the construction of the Canadian Pacific Railway, as a necessary part of the arrangement, were national and in the highest degree important to Canada and Great Britain.

The treaty was consummated in the House of Commons and Senate on two considerations only: First, that the ends to be accomplished justified the great sacrifice to be made; second, that the railway would be built out of land subsidies, as the American Pacific lines had been, to which British Columbia itself would contribute its quota, or twenty miles on each side of the railway throughout the extent of the Province. To reach this view of the case, and satisfy supporters of the government, a resolution was passed as a sort of rider to the Terms of Union, (Vide A. and B., Appendices) moved by Sir George Cartier, leader of the House, making the building of the railway contingent upon its occasioning no increase of taxation.

Throughout, on account of the exigencies of political warfare in eastern Canada and a variety of conditions, an attitude of mind was developed which prevented the original railway scheme being carried out and, on a series of occasions, of justice being done to British Columbia, terms and conditions being imposed that were unjust and inequitable. On account of this unfortunate state of affairs development of British Columbia was retarded for many years, and her financial and political interests were seriously prejudiced.

In 1871 and 1872 the minds of the people of eastern Canada were inflamed against the bargain made with British Columbia and after the revelations of the Pacific scandal exposure the prejudice against the entire circumstances affecting the entry of British Columbia became a settled attitude of mind—a chronic basis of objection to all things western or related to the Canadian Pacific Railway enterprise.

The failure of Sir Hugh Allan to raise money in Great Britain to finance the construction of the Canadian Pacific Railway was due to the political agitation in Canada, and in some measure to the opposition of the Grand Trunk Railway Company, and also to the fact that the American transcontinental lines, in a more developed country, were not paying dividends.

The political gravity of the Pacific scandal which resulted in the defeat of the Conservative government, and the consequent set back of the railway project for years, was greatly exaggerated and created an unjust and uncalled for revulsion of feeling, which reacted unjustly and detrimentally upon British Columbia.

In the case of the Carnarvon Terms (Vide C. & D., Appendices) the government of Canada committed itself without recourse, except by repudiation, to the building of the railway on the Island of Vancouver and to the continuous construction at the rate of \$2,000,000 expenditure per annum on the mainland, and the completion of the system to Lake Superior by 1890. The Carnarvon Award was confirmed in the House of Commons but defeated in the Senate.

The entry of the Hon. Edward Blake into the Dominion Cabinet took place upon the distinct understanding that the Carnarvon Terms should not have effect, and, in lieu thereof, an offer of \$750,000 was made to the Province *on account of delays that might take place in the construction of the railway*. In other words, the policy of the government of Canada after 1874 was to ignore the obligations in respect to British Columbia on grounds which afterwards proved to be untenable and fallacious.

The resolution respecting an increase in taxation, which was only intended to soothe government supporters at the time of the passing of the Terms and which was not binding on the Province, was held up as an estoppel to active construction. The policy adopted by the Mackenzie government was a radical departure from all principles laid down by Parliament in 1871.

As a matter of fact, the rate of taxation was raised from 15% to 17½% in anticipation of the increased expenditure on account of the railway without the increased revenue being used for the purpose, and within the years 1873 to 1879 the public debt increased by over \$50,000,000 and the entire expenditure on account of the Canadian Pacific Railway was only \$11,000,000, including surveys.

When the Conservatives came into power, upon the defeat of the Mackenzie government, they, too, made a radical departure from the policy first announced and adopted in respect to the building of the railway. It was understood, in the

first instance, that the railway should be built largely out of land subsidies, to which all the provinces through which it passed should contribute in a proportion similar to that of British Columbia. The John Sandfield government of Ontario, before its defeat, had agreed to this arrangement, although on account of Sir Hugh Allan's failure to promote the enterprise and the effect of the Pacific scandal, no other private company, until 1880, offered to undertake it.

Originally, the forty-mile belt in British Columbia was intended to be used as a subsidy to a railway company and not to be retained by the Dominion government. So also was the land in the Middle West and Ontario to be thus utilized for actual railway purposes—without resort to increased taxation. In the arrangement with the syndicate of 1880, the original basis was altered. Ontario was not asked for any contribution in the way of land subsidy and instead of 50,000,000 or 100,000,000 acres of land being handed over to the company, only 25,000,000 acres of land, taken entirely from the lands of the Middle West, were given, the remainder of the subvention being \$25,000,000 in cash and the completed portions of the railway. The land subsidy was, therefore, only one-quarter of that originally contemplated. British Columbia gave not only its lands to the Dominion, as agreed upon, but contributed in cash in a ratio per head three times greater than the average citizen of Canada.

Moreover, in 1884, when the syndicate, under financial stress, came to the Dominion government for a loan of \$30,000,000 a deep feeling of discontent and disappointment existed throughout Canada, and all the old issues in respect to the burden of British Columbia, the financial absurdity of the outcome, etc., came again prominently to the front. To use the language of a particular section of the press of the day, the supporters of the government from Quebec sulked in their tents for days and there was mutiny among the government representatives from the Maritime Provinces. As a result a new, though unofficial, arrangement was effected. The province of Quebec which had subsidized the Quebec, Montreal and Ottawa railway—incorporated into the Canadian Pacific Railway system—was refunded an amount, which, with the interest, equalled \$5,160,054, on the ground that the line in question had become part of a national system for national purposes. Nova Scotia was refunded its outlay on the Eastern Extension which became part of the Intercolonial system for similar reasons. New Brunswick was settled with. The loan was agreed to. At the same time, British Columbia, to obtain seventy-five miles of railway on the Island of Vancouver—pledged under the terms of the Carnarvon Award—was obliged to deliver up assets to the Dominion easily equivalent at the present moment to \$55,000,000 in cash value, viz., 2,000,000 acres of land on Vancouver Island and 3,500,000 acres of land in Peace River district. It was a ruinous and short-sighted bargain on the part of the Province. From an eastern point of view the sacrifice was demanded on account of the risks involved in the Canadian Pacific Railway as a whole and in the loan of \$30,000,000 to complete an enterprise which was still regarded as an obligation on account, and for the special benefit, of British Columbia. In Quebec, Nova Scotia and New Brunswick, these provinces were relieved of certain obligations on the ground that the Canadian Pacific and Intercolonial railways were national undertakings for national purposes, while for some inscrutable reason, so far as the West was concerned, the Canadian Pacific Railway was regarded as an enterprise to which British Columbia was entitled to contribute in a special and substantial manner. The notion that

the Dominion was in any way bound by, or the failure of Canada to live up to the terms of, the Carnarvon Award was dismissed from the public mind. British Columbia was even penalized to an enormous extent to secure that fragment of a railway (the E. & N. Railway) which from a commercial point of view never paid interest on the investment and was of little local benefit, until it was absorbed into and became part of the national system. If Quebec and Nova Scotia deserved and obtained recognition of their claims to compensation on account of the railways they assisted becoming part of a general or national system, financed by the nation, British Columbia's claims would appear at least equally strong on account of both the forty-mile belt on the mainland and on account of the line on the Island, which latter was included in the Act of Settlement of 1884 (Vide E., Appendices), as the clearing up of national liabilities in respect to British Columbia.

Strong objection was taken to the government of Canada taking over and assuming the cost and operation of the dry dock and this was regarded as an act of special grace and favour to British Columbia. As a matter of fact, it was a service which the Province had no right to assume in the first instance, being national and Imperial in its uses, in the same sense as lighthouses, quarantine, militia and military fortifications are national; and British Columbia with its limited financial resources merely burdened itself with an undertaking it could not carry on, even with the guarantee of interest of 5% on £160,000 at Ottawa and the subsidy of £50,000 guaranteed by the Imperial government.

The logical way in which to have proceeded at the outset was to have undertaken the construction of the Canadian Pacific Railway as a national, transcontinental railway, in accordance with the written understanding of many years that such a railway was necessary in the interests of Canada and of the Empire, altogether apart from considerations of its effect upon, and independent of, British Columbia; and to have taken in British Columbia in a manner similar to other provinces. It was because the definite assurance of communication with eastern Canada had been the principal inducement held out to British Columbia when that Province came into Confederation that the Canadian Pacific Railway became associated in the public mind with British Columbia, and that railway was for a long time regarded as for its special benefit at an unthinkable cost to the whole Dominion.

British Columbia did not get railway connection until 1886, after the original arrangements had been violated, and, so therefore, any special benefit she might have expected from speedy communication under the Terms of Union were nullified and did not materialize. On the other hand, having in view the terms of the treaty of 1871 and the Carnarvon Terms of 1874, the long series of negotiations and disputes were extremely detrimental to the interests of the Province.

British Columbia was not responsible in any way for the political conditions in eastern Canada which operated not only disastrously to her material development, but as a great actual direct and indirect loss to her financially, both in the public way and in respect to private business pursuits. Opposition to the Terms of Union, which included the construction of the Canadian Pacific Railway as its main feature, was at first purely political, the result of partisan feud, and afterwards became a general mental attitude based upon settled conviction; the unfairness of the Terms to, and the burdens laid upon, Canada thereby, a general impracticability and financial abyss involved in the whole scheme.

The building of the Intercolonial Railway, the construction of the canal system and the undertaking of the National Transcontinental Railway—all of which were projected and carried through as national and paid for out of the national purse in cash—were in no way associated with any province and in the public mind not chargeable to some particular section of Canada, although as compared with the Canadian Pacific Railway they are extremely limited in their national effect and in the scope of their operations. As commercial undertakings, pure and simple—though indirectly of much public benefit—they represent loss, while the Canadian Pacific Railway has been financially the most conspicuous success in America or in the world as a railway enterprise, and from a national and Imperial standpoint has been incalculable in its benefits.

The Intercolonial Railway, the *sine qua non* of the Maritime Provinces coming into Confederation—an almost exact parallel with the case of British Columbia—is local in its operations. In respect to the canals and National Transcontinental Railway, they are national in their effects. The Canadian Pacific Railway made the West, and tied the East to the West. The former agencies assist in the development which followed and will continue to follow.

British Columbia, therefore, is the only province in the Dominion that has been tied to a national enterprise as a reason for its existence, and that has been asked in order to have the benefits of railway communication to subsidize the Dominion of Canada to obtain such benefits. It is true that at the time of Union the arrangement made afforded the only practicable solution of what the Dominion government had had in its mind, but it is also true that the financial relations between the provinces and the Dominion fixed in 1867 were the only practical solution of the problem presented at that time—the result of compromise amongst conflicting interests—and these have been altered from time to time, and were, in 1907, completely readjusted—because subsequent developments in Canada pointed to the entire reasonableness, not to speak of the necessity, of such a course.

Historically, the grounds upon which readjustment of the terms is claimed are, therefore, as follows:—

1. The Terms of Union with British Columbia were not unfair to the rest of Canada:
2. So far from the railway being for the special benefit of British Columbia, it has been of incalculable benefit to Canada and the Empire:
3. The Terms of Union with British Columbia were not impossible of fulfilment, inasmuch as the railway was built and completed in less than ten years from the time when work was actually commenced:
4. The railway has not been a burden to Canada, but through its influence in opening up the West has enabled Canada to assume other burdens many times greater:
5. British Columbia so far from being a financial drag on the Dominion, has contributed revenue to the Dominion in the ratio of three to one as compared to the rest of Canada, and shows a surplus of many millions in its favour:
6. The railway has paid practically from the outset and is to-day one of the largest and greatest revenue-producing railway systems in the world.

British Columbia is the only province which has had to bonus the Dominion for a railway or other enterprise purely national and Imperial in its purpose, and should have been placed on the same basis as all the other provinces in relation thereto.

The Intercolonial, which has cost about \$100,000,000, was built as one of the conditions upon which the Maritime Provinces entered Confederation, and was in no way especially contributed to by those provinces, either in the form of money or land.

The system of canals, mainly in Ontario, has cost over \$125,000,000, and has contributed less than \$15,000,000 in revenue to date. It was paid for by the Dominion as a whole, in cash, for national purposes.

The National Transcontinental railway is to cost \$250,000,000 and is wholly east of Winnipeg. It is being built directly in cash out of the Treasury as a governmental and national undertaking.

The Canadian Pacific Railway cost Canada in cash to date about \$62,500,000. Compared with all other enterprises of a national character in Canada, its effects on the nation have been so immensely greater as to be immeasurable.

In view of the historical developments, the conditions which affect the entry of British Columbia into Confederation, and the misapprehension which governed the Terms of Union, it was unjust and inequitable that British Columbia should have been obliged, through political conditions, to give 18,900,000 acres of land to obtain a transcontinental line of railway, from which eastern Canada has secured by far the greater share of commercial and industrial benefit, and a short line of 75 miles on the Island of Vancouver.

In brief, all original assumptions in regard to the future of British Columbia and the Canadian Pacific Railway upon which the Terms of Union were based, having proved to be groundless and fallacious, the Terms should be revised in accordance with the actual developments since 1885.

These assumptions on the part of opponents were, mainly, as follows:—

1. They contended that the West was much over-represented on the basis of population, which, owing to George Brown's great fight for "representation by population," had in Ontario been a live issue, and the principles of which were firmly established in the public mind, and, therefore, the provision for representation in the Terms of Union was unjust to the rest of Canada.

2. They contended that as the railway was part of the Terms of Union—the price at which British Columbia was bought—to give that Province \$100,000 per annum in lieu of lands intended as a subsidy for something which was for the special benefit of British Columbia, was outrageous and absurd; also unfair to eastern Canada, the people of that portion of which would be taxed beyond endurance to build and maintain the railway.

3. They contended that under the Terms of Union it was literally incumbent upon Canada to make the surveys within two years and construct the railway within ten years—which was physically and financially beyond the resources of not only the Dominion but of the Empire—and that the failure of literal performance would constitute a violation of the treaty and that British Columbia would be at liberty to sue for compensation after Canada had bankrupted herself in the attempt to live up to it.

4. They contended that a railway to cost from \$100,000,000 to \$180,000,000, traversing, as it must, 2,500 miles of wilderness and uninhabited, as well as, for long stretches, uninhabitable lands, would not and could not pay, and, therefore, as no private company would undertake it on any reasonable terms the government would eventually have to build it out of national funds—which was unthinkable and, if attempted, would mean bankruptcy and ruin.

5. They contended, reasoning by parallel, that, as the American railways, heavily subsidized, traversing a country of developed resources and many-fold greater population, had not paid dividends, and as the Grand Trunk in Canada, running between centres of population through a country fast developing and populated, had been unremunerative, it was unthinkable that a railway through barren wilderness and unsettled plains, would ever, or at least for a long time to come, pay interest on the investment.

6. They contended that such a railway was unnecessary for many years—at a railway from Fort Garry to the Rocky Mountains, with branches to the country settled, built gradually, would open and develop the only fertile region in the West, and that until such development took place British Columbia should wait or otherwise that the cost of building through the Rocky Mountains to the Pacific ocean should be borne by Great Britain.

7. They argued that the prospects of any considerable trade with the coast through a port or ports of British Columbia were illusory and that for the purpose of Imperial policy it were necessary to include British Columbia in a Confederation and to have defensive forts on the Pacific or to carry a heavy trade for British commerce via Canada, it was the duty of Great Britain to undertake the responsibility of constructing a railway for such purposes.

8. While it was admitted in a general way that the consolidation of all our British possessions in North America was desirable and should be brought about in due time, they argued that the scheme submitted to Parliament for immediate adoption was premature, extravagant, excessively burdensome and beyond the ability of the country to carry out.

9. They argued that as British Columbia was of vast extent, of a rugged and rugged exterior, possessing little arable land and practically inaccessible, except at enormous cost, to railways, it, therefore, would involve an immense annual expenditure on the part of the Dominion, without the latter ever being recouped in revenue from provincial resources for the outlay—not to speak of the enormous cost of the railway itself, which was the price of British Columbia, and the enormous deficits to ensue from its operations. In other words, that British Columbia and its consequence, the railway, must always remain burdens on the Dominion as a whole and a detriment to its prosperity.

10. Objections were taken to the guarantee of the interest at 7 per cent. on £100,000 for the purposes of a dry dock at Esquimalt; to the pensioning of British Columbia officials; and generally for conceding to the British Columbia delegates more than they asked for.

11. It was argued that in promising such terms to British Columbia the government was cruelly deceiving the people of that Province and that their last end, so to speak, would be worse than the first, as the consequence of holding out hopes that could not be realized.

12. The determination of the government to launch upon such a scheme without preliminary surveys or any definite knowledge of the country or its resources or any certainty of being able to finance the enterprise was denounced as egregious folly.

Under the terms of the Dominion Order in Council of 1873 fixing the terminus of the Canadian Pacific Railway at Esquimalt, and the business expectations created thereby; the consequent reservation, at the request of the Dominion Government to form part of the provincial land subsidy in aid of the railway—of a twenty mile belt along the east coast of Vancouver Island; the unloading of several cargoes of steel rails at Esquimalt to form part of the equipment of the proposed Island railway; the Carnarvon Award, binding equally upon the Dominion of Canada and the Province of British Columbia, by which the Dominion government unequivocally agreed to build a railway on the Island of Vancouver from Esquimalt to Nanaimo—admittedly as a just compensation for the delay in the construction of the Canadian Pacific Railway; the refusal of the Dominion government to reintroduce the legislation confirming the Carnarvon Terms which was defeated by the Senate; the subsequent offer of \$750,000 to the province by the Dominion government in lieu of the fulfillment of the Carnarvon Terms, which offer was refused by the Provincial government; the long delay, disappointments and business losses occasioned by suspense—all these were circumstances not taken into consideration or accounted for in the Settlement Act of 1884. The question is not whether the arrangement then effected was a definite and constitutional settlement. The question now submitted is, was it a fair and just settlement—such a settlement as in all the circumstances should in equity have been made and such as would have been justified by subsequent events and developments?

II.—THE PHYSICAL ASPECT.

The second division of the case relates to the physical aspect of the Province, including its geographical isolation. This has caused a local cost of administration in respect to all branches of the public service disproportionate to the cost of similar services in the other provinces, on account of which the allowance from the Dominion has from the outset been wholly inadequate; which has imposed an additional burden in the way of through and local traffic rates to be borne by the local consumer, and minimized to the lowest degree the opportunities and advantages of interprovincial trade, which constituted the main objects of Confederation; and which have accounted in a large measure for the unusually large contributions on the part of the Province to the Dominion in respect to customs levies, also for the sparseness of population upon which the burdens of state must rest in relative disproportion as compared with provinces like these of the Middle West capable of compact settlement throughout.

The following taken from a Memorandum submitted to the Dominion government in 1905 will conveniently serve the purpose in hand. *Similar compilations for the years since 1902 show similar results, with a slightly decreased disparity:—*

"To arrive at a definite basis upon which to submit a claim in a stated sum as compensation on account of such conditions and physical disabilities, which increase abnormally the cost of provincial administration compared with the average conditions of the rest of the Dominion, a full and detailed examination has been made covering the expenditures of all the provinces for various services since 1871.

" The first of these conditions, which refers to the mountainous surface, is one which clearly differentiates the case of this Province from that of every other province. The extreme limit of the arable land is about one-twenty-fourth of the entire surface or at the very outside 15,500,000 acres, much of which cannot be classed other than pasture land, out of 240,000,000 acres. The habitable area is mainly restricted to the arable portions. This lies more or less evenly, distributed in widely separated narrow valleys immured by precipitous mountain sides. This is a condition which finds no parallel in Canada among the other provinces, the distinct effect of which upon the cost of provincial administration may, by an examination of the statistics referred to, be ascertained in some degree of definiteness. It is a condition which neither settlement nor development can alter in the slightest, and on account of which settlements are small in area, isolated in position, and difficult of access. As a consequence, the Province pays per head of its population for roads, streets and bridges over twenty times as much in the average as the same services cost in the other provinces for the five years, 1898-1902, as the following table shows:—

Annual Expenditure per Head for Roads, Streets, and Bridges.

Provinces.	1898.	1899.	1900.	1901.	1902.	Average.
British Columbia	\$2 30	\$3 71	\$1 89	\$2 94	\$3 68	\$2 94
New Brunswick	47	48	49	72	89	61
Prince Edward Island	31	42½	42½	38	38½
Nova Scotia	49	48½	20	25½	20½	20 7/10
Manitoba	26	17½	25	13	15	19 3/10
Quebec	06½	08	11	11½	07	08-4/5
Ontario	05	04	07	06	09½	06 3/10
Average						22 7/10
Average of all the Provinces other than British Columbia						43 3/5

" The disparity is as enduring as the mountains which gave rise to it.

" Taking together four services, it is found that the cost to British Columbia per head of the population is over nine times that of the average of all other provinces, as following table shows:—

Average Expenditure per Head for Five Years, 1898 to 1902.

Provinces.	Roads, &c.	Civil Government.	Justice.	Hospitals, &c.	Total.
British Columbia	\$2 94	\$1 06	\$0 83	\$0 37	\$5 18
New Brunswick	61	08-4/5	06-1/5	02	78
Prince Edward Island	38½	06	16-7/10	06 9/10	68 1/10
Quebec	08-4/5	14 9/10	32½	02 2/3	60 3/10
Manitoba	49 3/10	15½	12	07 7/10	54½
Ontario	06-3/10	12-1/5	19 2/5	09-1/5	47 4/10
Nova Scotia	20-7/10	04-3/5	03	13-7/10	42
Average					69 3/10
Average of all the Provinces other than British Columbia					53 9/10

" Taking the total per capita expenditure for all the provinces for all services for the five years, 1898-1902, it will be found from the table below that British Columbia is nearly five times that of the average of all the other provinces, and that the difference between British Columbia's annual per capita expenditure of \$12.61

and that of all the other provinces (including British Columbia) of \$2.66 is the yearly sum of \$9.95 per head of the population, or requiring the yearly sum of \$1,706,222 to place it on all fours with the rest of the provinces.

Total Expenditure for all Services in all Provinces for Five Years.

Provinces.	Average Population for 5 Years.	Total Expenditure for 5 Years.	Average per Head per Year.
British Columbia	171,489	\$10,813,905	\$12.61
Manitoba	215,409	5,132,131	4.18
Prince Edward Island	103,687	1,526,194	2.94½
Quebec	1,036,454	22,057,010	2.09½
New Brunswick	330,377	1,027,154	2.44
Nova Scotia	158,882	1,815,300	2.16
Ontario	2,177,751	19,909,912	1.37½
	5,124,109	\$68,311,339	\$ 2.66

" Lastly, from the subjoined table of the total expenditures for all services of all the provinces for the 30 years, 1873-1902, it will be found that British Columbia's per capita expenditure is over five times the average of all the provinces, and that the excess of British Columbia's per capita annual expenditure over that of the average of all the provinces is \$9.54, or very little less than the excess for the five year period, showing that the excess was constant throughout the whole period.

Total Expenditure for all Services in all Provinces for Thirty Years.

Provinces.	Average Population for 30 Years.	Total Expenditure for 30 Years.	Amount per Head per Year.
British Columbia	90,634	\$ 32,243,068	\$11.86
Manitoba	123,801	16,025,974	4.31
Prince Edward Island	101,062	9,179,906	2.94
Quebec	1,421,991	104,027,881	2.41
New Brunswick	314,862	20,381,060	2.16
Ontario	1,961,260	105,798,513	1.79
Nova Scotia	431,585	21,525,803	1.65
	4,451,138	\$309,182,261	\$ 2.32

" The striking inequality in expenditures disclosed by a comparison between British Columbia and the other provinces, and the similarity, amounting almost to uniformity, shown to exist among the latter, point unmistakably to some cause permanently operating in this Province to account for the difference in results.

" It is impossible, having in view all the facts, to escape the conclusion that this permanent cause is the vast area of mountainous surface in British Columbia, which enters as a controlling factor into every branch of Provincial administration.

" The second cause which operates disadvantageously towards British Columbia is its position in relation to other provinces and other countries, which adds, as additional imposts, long-distance freights to the first cost of articles imported for use and for local manufactures; and also minimizes to an unusual degree the advantages to be derived from interprovincial trade, which was the commercial object of Confederation.

" In regard to interprovincial trade, it has been set out by Mr. George Johnson, Statistician for the Dominion, in this way :

Trade of the two central Provinces with the other Provinces.....	\$150,000,000
Trade of the two central Provinces with each other	115,000,000
Trade of the three Maritime Provinces with each other	30,000,000
Trade of the Western Provinces and Territories with each other.....	20,000,000
Total	\$315,000,000

Or, say, \$80 per head.

" The products of British Columbia, which are exported to other provinces, though extremely limited, consist chiefly of lumber, shingles, fish and fruit, and of goods to the Yukon. From the latest available statistics these are estimated in the value of \$3,000,000, or 1 per cent. of the whole interprovincial trade of Canada. Thus, this province having 3 per cent. of the whole population, pays 8 per cent. of the price of Confederation, and gets in return 1 per cent. of its trade benefits."

In his letter of October 13th, 1906, to the Hon. L. Gouin, Chairman of the inter-provincial conference at Ottawa, the Hon. Richard McBride, delegate for British Columbia, among other things said :

" As to the terms of settlement in respect to additional allowance, there is no exact mathematical basis upon which to proceed. I have, however, to come to a just conclusion as to what should be a fair compensation for our special conditions and circumstances.

" The underlying principle I have kept in mind in respect to our physical disabilities which is our main claim for compensation, is that the allowance should not be based upon population alone, but also upon the cost of administration per head of the population. It is obviously very much cheaper to administer a small, compact area with a large population, than to administer a larger, broken area with a scattered population.

" The disparity under this head in the case of British Columbia is so great that no general allowance considered adequate for other provinces can uniformly and justly apply to its conditions.

" Our disabilities are of a permanent character and can never be overcome. Therefore, the additional allowance for this condition must, if admitted at all, remain as permanent as the disabilities are.

" It is true that with the increase of our population, the relative cost per head may, and probably will, slightly decrease in time, but while the ratio of prosperity may alter, the general condition will always remain.

" Moreover, our requirements for developments in the immediate future, and by reason of sparse population, are per head greater than they will be after some time to come.

" Consideration also must be had for the disabilities and conditions of the past as well as for those of the future."

The claims made by the various interprovincial conferences for a general readjustment of the financial relations between the provinces and the Dominion, which were recognized by the various governments in conference and by the government of Canada as founded upon just and right principles, are essentially those made by the British Columbia government, with this important distinction that the reasons which alike give them foundation are greatly accentuated in the case of the province of British Columbia. In brief, the contentions of the provinces were (Vide report of the various conferences held at Quebec and Ottawa) :

1. That new conditions have arisen since Confederation which were unforeseen or not provided against at that time.

2. That the financial resources of the several provinces, as determined by statute, are no longer sufficient to meet the expenditure necessary to adequately administer the affairs of the provinces and effectually promote their further development.

3. That the growth of population, by reason of development, the result of efforts on the part of both the Dominion and Provincial governments, increases the financial responsibilities of the provinces without a corresponding increase of subsidy to meet it.

4. That it was the evident intention of the framers of the Terms of Union to make adequate financial provision for the requirements of the Dominion and Provincial governments for all time to come.

It was for these reasons and for these reasons alone that the resolutions unanimously passed at the interprovincial conference at Ottawa in 1906, and, subsequently confirmed by the Dominion and Imperial parliaments, came into existence. In this connection particular attention is called to the speeches made by the Hon. S. N. Parent and the Hon. G. W. Ross at the conference of 1906 held at Quebec.

These reasons have exceptional force as applied to the province of British Columbia on account of conditions, mainly physical, which were by the interprovincial conference of 1906 and the parliament of Canada recognized as exceptional. Therefore, to the extent to which the disparity between British Columbia and the other provinces in this respect exists the Dominion is bound in equal fairness to recognize it.

The charges against the Province through customs revenues, to which may be added heavy freight bills, arising out of long distance from centres of supply in the east, and local physical conditions which increase the cost of local freights from ten to twenty per cent. over eastern bills, are several times greater than in the eastern provinces, and thus to that extent lessen the ability to maintain the cost of local administration.

The responsibilities of population involved in the increase of population in British Columbia, as will be seen, are several times greater than elsewhere in Canada by reason of a combination of disadvantageous conditions, mainly physical in their nature.

The contentions of the interprovincial conference that increased subsidies to the provinces to permit of their still further development would bring increased revenues to the Dominion as a compensation, apply with peculiar force to the particular case of British Columbia. The latter Province has admittedly great resources. Obviously, however, owing to the physical obstacles to overcome, to make these sources available by development, an expenditure very much larger than in the other provinces is required; but as British Columbia has in the past contributed, and in the future must continue to contribute, in an excessive ratio to the Federal Treasury, as compared with the rest of Canada, so the Dominion for relatively increased subsidies to this Province will reap a corresponding increase in revenue to the Treasury and in benefits to trade and industry.

The exceptional character and position of British Columbia—its large area, geographical situation and very exceptional physical features—and the justness of the claims for additional annual allowance on account of such conditions, were, by

resolution, formally recognized by the interprovincial conference of 1906 and the principle was affirmed by the government and parliament of Canada.

The question which arises, therefore, is the extent to which that annual allowance should be made. It is only necessary to observe here that the physical condition, on account of which the special allowance in 1907 was made, being permanent, logically the allowance must also be permanent and it rests with the Commission to determine to what extent the principle shall apply in the future.

The claims of the Province must necessarily take cognizance of past disabilities and inequalities, as well as of the present and future conditions and requirements. On account of both exceptional physical conditions and the peculiar political conditions, which the people and parliament failed to recognize as cruel and unjust to British Columbia, its development was set back and handicapped for a period of at least twenty five years. In other words, the province of British Columbia has been the victim of physical disabilities and of political conditions, misapprehensions and prejudice—of national mental attitude which developed in 1871 and became fixed as the result of the events of 1872 and succeeding years.

Official reports in regard to the subject are to be found in the Sessional Papers of British Columbia, as follows:

1901.....	page 545
1903.....	K. 3
1903-4.....	G. 15
1905.....	D. 1
1907.....	D. 1
1908.....	L. 1

Other sources of official information that may be consulted with reference to the subject of the Terms of Union and the construction of the Canadian Pacific Railway are the Debates on Confederation in the Legislative Council of British Columbia, 1870, the Hansard Reports of the House of Commons and Senate for almost continuous years from 1871 to 1886, and the British Columbia Sessional Papers of 1881, containing "Railway Papers."

APPENDICES.

APPENDIX A.

THE TERMS OF UNION.

1. Canada shall be liable for the debts and liabilities of British Columbia existing at the time of the Union.

2. British Columbia not having incurred debts equal to those of the other Provinces now constituting the Dominion, shall be entitled to receive, by half-yearly payments, in advance, from the General Government, interest at the rate of five per cent. per annum on the difference between the actual amount of its indebtedness at the date of the Union and the indebtedness per head of the population of Nova Scotia and New Brunswick (27.77 dollars), the population of British Columbia being taken at 60,000.

3. The following sums shall be paid by Canada to British Columbia for the support of its Government and Legislature, to wit, an annual subsidy of 35,000 dollars, and an annual grant equal to 80 cents per head of the said population of 60,000, both half-yearly in advance; such grant of 80 cents per head to be augmented in proportion to the increase in population, as may be shown by each decennial census, until the population amounts to 100,000, at which rate such grant shall thereafter remain, it being understood that the first census be taken in the year 1881.

4. The Dominion will provide an efficient mail service, fortnightly, by steam communication, between Victoria and San Francisco, and twice a week between Victoria and Olympia; the vessels to be adapted for the convenience of freight and passengers.

5. Canada will assume and defray the charge for the following services:—

A. Salary of the Lieutenant-Governor;

B. Salaries and allowances of the Judges of the Superior Courts and the County or District Courts;

C. The charges in respect to the Department of Customs;

D. The Postal and Telegraphic Services;

E. Protection and encouragement of Fisheries;

F. Provision for the Militia;

G. Lighthouses, Buoys, and Beacons, Shipwrecked Crews, Quarantine and Marine Hospitals, including a Marine Hospital at Victoria;

H. The Geological Survey;

I. The Penitentiary.

And such further charges as may be incident and connected with the services which, by the "British North America Act of 1867," appertain to the General Government, and as are or may be allowed to the other Provinces.

6. Suitable pensions, such as shall be approved of by Her Majesty's Government, shall be provided by the Government of the Dominion for those of Her Majesty's servants in the Customs whose position and emoluments derived therefrom would be affected by political changes on admission of British Columbia into the Dominion of Canada.

7. It is agreed that the existing Customs Tariff and Excise Duties shall continue in force in British Columbia until the Railway from the Pacific Coast and the system of Railways in Canada are connected, unless the Legislature of British Columbia should sooner decide to accept the tariff and excise laws of Canada. When customs and excise duties are, at the time of the union of British Columbia with Canada, leviable on any goods, wares, or merchandises in British Columbia, or in the other Provinces of the Dominion, those goods, wares, and merchandises may, from and after the Union, be imported into British Columbia from the Provinces now composing the Dominion, or from either of those Provinces into British Columbia, on proof of payment of the customs or excise duties leviable thereon in the Province of exportation, and on payment of such further amount (if any) of customs or excise duties as are leviable thereon in the Province of importation. This arrangement to have no force or effect after the assimilation of the tariff and excise duties of British Columbia with those of the Dominion.

8. British Columbia shall be entitled to be represented in the Senate by three members, and by six members in the House of Commons. The representation to be increased under the provisions of the "British North America Act, 1867."

9. The influence of the Dominion Government will be used to secure the continued maintenance of the Naval Station at Esplanade.

10. The provisions of the "British North America Act, 1867," shall (except those parts thereof which are in terms made, or by reasonable intendment may be held to be specially applicable to and only affect one and not the whole of the Provinces now comprising the Dominion, and except so far as the same may be varied by this Minute) be applicable to British Columbia, in the same way and to the like intent as they apply to the other Provinces of the Dominion, and as if the Colony of British Columbia had been one of the Provinces united by the said Act.

11. The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of the Union, of the construction of a Railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such Railway within ten years from the date of the Union.

And the Government of British Columbia agree to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in the furtherance of the construction of the said Railway, a similar extent of public lands along the line of Railway, throughout its entire length in British Columbia, not to exceed, however, Twenty (20) Miles on each side of said line, as may be appropriated for the same purpose by the Dominion Government from the public lands in the North-West Territories and the Province of Manitoba. Provided, that the quantity of land which may be held under pre-emption right, or by Crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government shall be made good to the Dominion from contiguous public lands; and, provided further, that until the commencement, within two years, as aforesaid, from the date of the Union, of the construction of the said Railway, the Government of British Columbia shall not sell or alienate any further portions of the public lands of British Columbia in any other way than under right of pre-emption, requiring actual residence of the pre-emptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said Railway, the Dominion Government agree to pay British Columbia, from the date of the Union, the sum of 100,000 Dollars per annum, in half-yearly payments in advance.

12. The Dominion Government shall guarantee the interest for ten years from the date of the completion of the works, at the rate of five per centum per annum, on such sum, not exceeding £100,000 sterling, as may be required for the construction of a first class Graving Dock at Esplanade.

13. The charge of the Indians, and the trusteeship and management of the lands reserved for their use and benefit, shall be assumed by the Dominion Government, and a policy as liberal as that hitherto pursued by the British Columbia Government shall be continued by the Dominion Government after the Union.

To carry out such policy, tracts of land of such extent as it has hitherto been the practice of the British Columbia Government to appropriate for that purpose, shall from time to time be conveyed by the Local Government to the Dominion Government in trust for the use and benefit of the Indians, on application of the Dominion Government; and in case of disagreement between the two Governments respecting the quantity of such tracts of land to be so granted, the matter shall be referred for the decision of the Secretary of State for the Colonies.

14. The constitution of the Executive Authority and of the Legislature of British Columbia shall, subject to the provisions of the "British North America Act, 1867," continue as existing at the time of the Union until altered under the authority of said Act, it being at the same time understood that the Government of the Dominion will readily consent to the introduction of Responsible Government when desired by the inhabitants of British Columbia, and it being likewise understood that it is the intention of the Governor of British Columbia under the authority of the Secretary of State for the Colonies, to amend the existing constitution of the Legislature by providing that a majority of its members shall be elective.

The Union shall take effect according to the foregoing terms and conditions on such day as Her Majesty, by and with the advice of Her Most Honourable Privy Council, may appoint, on Addresses from the Legislature of the Colony of British Columbia and of the Houses of Parliament of Canada, in the terms of the 116th Section of the "British North America Act, 1867," and British Columbia may in its Address specify the Electoral Districts for which the first election of members to serve in the House of Commons shall take place.

APPENDIX B.

Extract from Recital in Act respecting Canadian Pacific Railway, House of Commons, 1872.

And whereas the House of Commons of Canada resolved during the said now last session, that the said railway should be constructed and worked by private enterprise and not by the Dominion Government; and that the public aid to be given to secure that undertaking, should consist of such liberal grants of land, and such subsidy in money, or other aid, *not increasing the present rate of taxation*, as the Parliament of Canada should thereafter determine; and it is expedient to make provision for carrying out the said agreement and resolution: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

APPENDIX C.

The Earl of Carnarvon to the Governor-General.

Received in Ottawa, 18th January, 1871.

I regret extremely the difficulty between Dominion of Canada and British Columbia as to Terms of Union in Connection with Pacific Railway. Her Majesty's Government are willing to give their good offices in adjusting the matter. If both parties unite in referring all matters of difference to my arbitration, binding themselves to abide by such award as I may deem just and fair, I will not refuse to undertake the duty.

Lieutenant Governor Trench to Earl Carnarvon.

GOVERNMENT HOUSE, VICTORIA,

3rd August, 1871.

My Lord: I have the honor to state that, on the 28th ultimo, I received and laid before my responsible advisers a copy of Your Lordship's despatch of June 18th, to Governor General the Earl of Dufferin, upon the pending difference between this Province and the Government of Canada, in relation to the Railway Article of the Terms of Union, which despatch was transmitted to me by Lord Dufferin, on the 3rd ultimo, in accordance with Your Lordship's instructions.

I now enclose a Minute of the Executive Council of this Province on your said despatch, and upon the advice of my Ministers therein expressed, I beg to signify my cordial acceptance, on behalf of the Government of British Columbia, of Your Lordship's proffered arbitration, in accordance, in all respects, with the conditions laid down in your said despatch, and to state that I have to-day dispatched a telegraphic message to you to this effect, of which a copy is appended.

A copy of this despatch and enclosures therewith will be sent by this mail to the Secretary of State for Canada, and for the information of His Excellency the Governor-General of Canada.

I have, &c.,

(Signed) Joseph W. Trench.

The Lieutenant-Governor to the Secretary of State for the Colonies.

3rd August, 1871.

Upon advice of Responsible Ministers I accept on behalf of British Columbia arbitration offered in your Despatch to Lord Dufferin, eighteenth June. Please acknowledge.

(Signed) Joseph W. Trench.

The Governor-General to the Earl of Carnarvon

SALUEL STE. MARIE, July 31st, 1871.

My Lord,—In further reference to your public despatch No. 110, of 18th June, which I communicated to my Ministers, I have the honour to enclose an approved Order in Council, in which my Government sets forth more at large its views with respect to its pending dispute with British Columbia, and expresses a desire that Your Lordship would use your good offices in promoting a settlement of the misunderstanding, in accordance with the suggestions you have been good enough to make.

I have, &c.,
(Signed) DUFFERIN.

The Governor-General to the Earl of Carnarvon,

(Canada)

September 18th, 1871.

My Lord,—In acknowledging the receipt of your Lordship's despatch, secret, of the 16th of August, in which you have been good enough to convey to me your opinion as to the modifications which might be introduced with advantage into the terms already proffered by my Ministers for the settlement of the dispute now pending between this Government and that of British Columbia, I have the satisfaction of informing you that after a good deal of anxious deliberation Mr. Mackenzie and his colleagues have consented to adopt several suggestions recommended to them by your Lordship, should it be found absolutely impossible to terminate the controversy in any other manner.

2. The general view of my Ministers on the various points referred to are set forth at large in the enclosed Order in Council from which your Lordship will gather that it is with very considerable reluctance they have been induced to make these further concessions, feeling so strongly as they do that their original proposals fairly satisfied the requirements of the case.

3. I have no doubt, however, it will be felt throughout the country that the only mode by which the Dominion could be satisfactorily extricated from the false position in which she was placed by her treaty obligations, to fulfil engagements which were physically impossible of execution, was by a large and generous interpretation of the consequent claims against her.

I have, &c.,
(Signed) DUFFERIN.

The Governor-General to the Earl of Carnarvon,

(13B)

OTTAWA, 18th December, 1871.

My Lord,—I have the honour to transmit to your Lordship a copy of an Order of the Privy Council, in which my Ministers convey to your Lordship their best acknowledgment for the pains and trouble you have been good enough to take in promoting the settlement of the difference which has arisen between British Columbia and the Government of the Dominion.

I have, &c.,
(Signed) DUFFERIN.

Report of the Privy Council, approved by the Governor-General in Council on the 18th December, 1871.

The Committee of Council have had under consideration the despatch of the Right Honourable Lord Carnarvon, Secretary of State for the Colonies, of November 17th, conveying a statement of the new terms with British Columbia, which, in his Lordship's opinion, may properly be laid down as fair and reasonable concerning the construction of the Pacific Railway.

In the minute of July 23rd, the Government of the Dominion advised that his Lordship should be informed of their willingness to leave it to him to say whether the exertions of the Government, the diligence shown, and the offers made, were, or were not, just and fair, and in accordance with the spirit of the original agreement, seeing it was impossible to comply with the letter of the Terms of Union in this particular.

The conclusion at which his Lordship has arrived "upholds," as he remarks, in the main, and subject only to some modifications of detail, the policy adopted by this Government on this most embarrassing question.

The Minute of Council of September 17th contained a statement of reasons showing why some of these modifications should not be pressed; but the Government, actuated by an anxious desire to remove all difficulties, expressed a willingness to make these further concessions rather than forego an immediate settlement of so irritating a question, as the concessions suggested might be made without involving a violation of the spirit of any Parliamentary resolution, or the letter of any enactment.

The Committee of Council respectfully request that your Excellency will be pleased to convey to Lord Carnarvon their warm appreciation of the kindness which led his Lordship to tender his good offices to effect a settlement of the matter in dispute; and also to assure his Lordship that every effort will be made to secure the realization of what is expected.

Certified,

(Signed) W. A. HENSWORTH,
Clerk, Privy Council.

APPENDIX D.

(Contained in Sessional Papers, British Columbia, 1881, page 210.)

The Earl of Carnarvon to the Earl of Dufferin.

My Lord,—

DOWNSING STREET, November 17th, 1871

* * * * *

Adhering, then, to the same order in which, on the 16th August, I stated the principal points on which it appeared to me a letter understanding should be defined, I now proceed to announce the conclusions at which I have arrived. They are:—

1. That the railway from Esquimalt to Nanaimo shall be commenced as soon as possible, and completed with all practicable dispatch.
2. That the surveys on the mainland shall be pushed on with the utmost vigour. On this point, after considering the representations of your Ministers, and that I have no alternative but to rely, as I do most fully and readily, upon their assurances that no legitimate effort or expense will be spared, first, to determine the best route for the line, and, secondly, to proceed with the details of the engineering work. It would be distasteful to me, if, indeed, it were not impossible to prescribe strictly any minimum of time or expenditure with regard to work of so uncertain a nature; but, happily, it is equally impossible for me to doubt that your Government will loyally do its best in every way to accelerate the completion of a duty left freely to its sense of honour and justice.
3. That the waggon road and telegraph line shall be immediately constructed. There seems here to be some difference of opinion as to the special value to the Province of the undertaking to complete these two works; but after considering what has been said, I am of the opinion that they should both be proceeded with at once, as indeed is suggested by your Ministers.
4. That \$2,000,000 a year and not \$1,500,000, shall be the minimum expenditure on railway works within the Province from the date at which the surveys are sufficiently completed to enable that amount to be expended on construction. In naming this amount I understand that, it being alike the interest and the wish of the Dominion Government to urge on with all possible speed the completion of the works now to be undertaken, the annual expenditure will be as much in excess of the minimum of \$2,000,000 as in any year may be found practicable.
5. Lastly, that on or before the 31st December, 1880, the railway shall be completed and open for traffic from the Pacific seaboard to a point at the western end of Lake Superior, at which it will fall into connection with the existing lines of railway through a portion of the United States, and also with the navigation on Canadian waters. To proceed at present with the remainder of the railway extending, by the country northward of Lake Superior, to the existing Canadian lines, ought not, in my opinion, to be required, and the time for undertaking that work must be determined by the development of settlement and the changing circumstances of the country. The day is, however, I hope, not far distant when a continuous line of railway through Canadian territory will be practicable, and I therefore look upon this portion of the scheme as postponed rather than abandoned.

APPENDIX E.

(Contained in Chapter 14, British Columbia Statutes, 1884, entitled "An Act relating to the Island Railway, the Graving Dock, and Railway Lands of the Province.")

Whereas negotiations between the Governments of Canada and British Columbia have been recently pending, relative to delays in the commencement and construction of the Canadian Pacific Railway, and relative to the Island Railway, the Graving Dock, and the Railway Lands of the Province;

And whereas for the purpose of settling all existing disputes and difficulties between the two Governments, it hath been agreed as follows:

(a.) The Legislature of British Columbia shall be invited to amend the Act No. 41 of 1880, intitled "An Act to authorize the grant of certain Public Lands on the Mainland of British Columbia to the Government of the Dominion of Canada for Canadian Pacific Railway purposes," so that the same extent of land on each side of the line of Railway through British Columbia, wherever finally settled, shall be granted to the Dominion Government in lieu of the lands conveyed by that Act.

(b.) The Government of British Columbia shall obtain the authority of the Legislature to grant to the Government of Canada a portion of the lands set forth and described in the Act No. 15 of 1882, intitled "An Act to incorporate the Vancouver Land and Railway Company," namely, that portion of the said lands therein described, commencing at the Southern boundary thereof and extending to a line running East and West, half way between Comox and Seymour Narrows; and also a further portion of the lands conveyed by the said Act to the northward of and contiguous to that portion of the said lands, last hereinafore specified, equal in extent to the lands within the limits thereof which may have been alienated from the Crown by Crown grants, exemption, or otherwise.

(c.) The Government of British Columbia shall obtain the authority of the Legislature to convey to the Government of Canada three and one-half millions of acres of land in the Peace River District of British Columbia, in one rectangular block, East of the Rocky Mountains, and adjoining the North-West Territory of Canada.

(d.) The Government of British Columbia shall procure the incorporation, by Act of their Legislature, of certain persons, to be designated by the Government of Canada, for the construction of the railway from Esquimalt to Nanaimo.

(e.) The Government of Canada shall, upon the adoption by the Legislature of British Columbia of the terms of this agreement, seek the sanction of Parliament to enable them to contribute to the construction of a railway from Esquimalt to Nanaimo the sum of \$750,000, and they agree to hand over to the contractors who may build such railway the lands which are or may be placed in their hands for that purpose by British Columbia; and they agree to take security, to the satisfaction of the Government of that Province, for the construction and completion of such railway on or before the 10th day of June, 1887; such construction to commence forthwith.

(f.) The lands on Vancouver Island to be so conveyed shall (except as to coal and other minerals, and also except as to timber lands as hereinafter mentioned), be open for four years from the passing of this Act to actual settlers, for agricultural purposes, at the rate of one dollar per acre, to the extent of 160 acres to each such actual settler; and in any grants to settlers the right to cut timber for railway purposes and rights of way for the railway, and stations, and workshops, shall be reserved. In the meantime, and until the railway from Esquimalt to Nanaimo shall have been completed, the Government of British Columbia shall be the agents of the Government of Canada for administering, for the purposes of settlement, the lands in this subsection mentioned; and for such purposes the Government of British Columbia may make and issue, subject as aforesaid, pre-emption records to actual settlers, of the said lands. All moneys received by the Government of British Columbia in respect of such administration shall be paid, as received, into the Bank of British Columbia, to the credit of the Receiver-General of Canada; and such moneys, less expenses incurred (if any), shall, upon the completion of the railway to the satisfaction of the Dominion Government, be paid over to the railway contractors.

(g.) The Government of Canada shall forthwith take over, and seek the authority of Parliament to purchase and complete and shall, upon the completion thereof, operate as a

Dominion work, the Dry Dock at Esquimalt; and shall be entitled to and have conveyed to them all the lands * * * * * belonging thereto, together with the Imperial appropriation therefor, and shall pay to the Province as the price thereof the sum of \$250,000, and shall further pay to the Province whatever amounts shall have been expended by the Provincial Government or which remain due, up to the time of the passing of this Act, for work or material supplied by the Government of British Columbia since the 27th day of June, 1882.

(b.) The Government of Canada shall, with all convenient speed, offer for sale the lands within the railway belt upon the Mainland, on liberal terms to actual settlers; and

(c.) Shall give persons who have squatted on any of the said lands within the railway belt on the Mainland, prior to the passing of this Act, and who have made substantial improvements thereon, a prior right of purchasing the lands so improved, at the rates charged to settlers generally.

(d.) This agreement is to be taken by the Province in full of all claims up to this date by the Province against the Dominion, in respect to delays in the commencement and construction of the Canadian Pacific Railway, and in respect to the non-construction of the Esquimalt and Nanaimo Railway, and shall be taken by the Dominion Government in satisfaction of all claims for additional lands under the Terms of Union, but shall not be binding unless and until same shall have been ratified by the Parliament of Canada and the Legislature of British Columbia.

And whereas it is expedient that the said agreement should be ratified, and that provision should be made to carry out the terms thereof;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

1. The heretofore recited agreement shall be and is hereby ratified and adopted.

2. Section 1 of the Act of the Legislature of British Columbia, No. 11 of 1880, intitled "An Act to authorize the grant of certain public lands on the mainland of British Columbia to the Government of the Dominion of Canada for Canadian Pacific Railway purposes," is hereby amended so as to read as follows:—

From and after the passing of this Act there shall be, and there is hereby granted to the Dominion Government for the purpose of constructing and to aid in the construction of the portion of the Canadian Pacific Railway on the mainland of British Columbia in trust, to be appropriated as the Dominion Government may deem advisable, the public land along the line of the railway beforementioned, wherever it may be finally located, to a width of twenty miles on each side of said line as provided in the Order in Council, Section 11, admitting the Province of British Columbia into Confederation; but nothing in this section contained shall prejudice the right of the Province to receive and be paid by the Dominion Government the sum of \$100,000 per annum, in half-yearly payments in advance, in consideration of the lands so conveyed, as provided in Section 11 of the Terms of Union: Provided always that the line of Railway before referred to, shall be one continuous line of railway only, connecting the seaboard of British Columbia with the Canadian Pacific Railway, now under construction on the East of the Rocky Mountains.

3. There is hereby granted to the Dominion Government, for the purpose of constructing, and to aid in the construction of a railway between Esquimalt and Nanaimo, and in trust to be appropriated as they may deem advisable (but save as is hereinafter excepted) all that piece or parcel of land situate in Vancouver Island, described as follows:—

Bounded on the South by a straight line drawn from the head of Saanich Inlet to Muir Creek on the Straits of Fuca;

On the West by a straight line drawn from Muir Creek aforesaid to Crown Mountain;

On the North by a straight line drawn from Crown Mountain to Seymour Narrows; and

On the East by the coast line of Vancouver Island to the point of beginning; and including all coal, coal oil, ores, stones, clay, marble, slats, mines, minerals, and substances whatsoever thereupon, therein and thereunder.

4. There is excepted out of the tract of land granted by the preceding section all that portion thereof lying to the northward of a line running East and West halfway between the mouth of the Courtenay River (Comox District) and Seymour Narrows.

5. Provided always that the Government of Canada shall be entitled out of such excepted tract to lands equal in extent to those alienated up to the date of this Act by Crown grant, pre-emption, or otherwise, within the limits of the grant mentioned in section 3 of this Act.

6. The grant mentioned in section 3 of this Act shall not include any lands now held under Crown grant, lease, agreement for sale, or other alienation by the Crown, nor shall it include Indian reserves or settlements, nor Naval or Military reserves.

7. There is hereby granted to the Dominion Government three and a half million acres of land in that portion of the Peace River District of British Columbia lying East of the Rocky Mountains and adjoining the North West Territory of Canada, to be located by the Dominion in one rectangular block.

8. For the purpose of facilitating the construction of the railway between Esquimalt and Nanaimo, it is hereby enacted that such persons, hereinafter called the "company," as may be named by the Governor General in Council, with all such other persons and corporations as shall become shareholders in the company, shall be and are hereby constituted a body corporate and politic by the name of "The Esquimalt and Nanaimo Railway Company."

9. The company, and their agents and servants, shall lay out, construct, equip, maintain, and work a continuous double or single track steel railway of the gauge of the Canadian Pacific Railway, and also a telegraph line, with the proper appurtenances, from a point at or near the Harbour of Esquimalt, in British Columbia, to a port or place at or near Nanaimo on the eastern coast of Vancouver Island, with power to extend the main line to Comox and Victoria, and to construct branches to settlements on the east coast, and also to extend the said railway by ferry communications to the mainland of British Columbia, and there to connect or amalgamate with any railway line in operation or course of construction. The company shall also have power and authority to build, own, and operate steam and other vessels in connection with the said railway, on and over the bays, gulfs, and inland waters of British Columbia.

10. The company may accept and receive from the Government of Canada any lease, grant or conveyance of lands, by way of subsidy or otherwise, in aid of the construction of the said railway, and may enter into any contract with the said Government for or respecting the use, occupation, mortgage or sale of the said lands, or any part thereof, on such conditions as may be agreed upon between the Government and the company.

11. The capital stock of the company shall be three millions of dollars, and shall be divided into shares of one hundred dollars each, but may be increased from time to time by the vote of the majority in value of the shareholders present in person, or represented by proxy, at any meeting specially called for the purpose, to an amount not exceeding five million dollars.

12. The persons to be named as aforesaid by the Governor General in Council shall be and are hereby constituted a board of provisional directors of the company, and shall hold office as such until other directors shall be elected under the provisions of this Act, and shall have power to fill any vacancies that may occur in said board; to open stock books at Victoria, British Columbia, or any other city in Canada; procure subscriptions and receive payments on stock subscribed.

13. When and so soon as one-half of the capital stock shall have been subscribed, and one-tenth of the amount thereof paid into any chartered bank, either at Victoria or San Francisco, or partly in each, the provisional directors may or may call a meeting of shareholders to be called at Victoria, British Columbia, at such time as they think proper, giving at least three weeks' notice thereof in one or more newspapers published in the City of Victoria, and by a circular letter mailed to each shareholder, at which meeting the shareholders present in person, or by proxy, shall elect five directors qualified as hereinafter provided, who shall hold office until the first Wednesday in October in the year following their election.

14. On the said first Wednesday in October, and on the same day in each year thereafter, at the City of Victoria, or at such other place as shall be fixed by the by-laws of the company, there shall be held a general meeting of the shareholders for receiving the report of the directors transacting the business of the company, general or special, and electing the directors thereof; and public notice of such annual meeting and election shall be published for one month before the day of meeting in one or more newspapers in the City of Victoria, and by circular letter mailed to each shareholder at least one month prior thereto. The election of directors shall be by ballot, and all shareholders may vote by proxy.

15. Three of the Directors shall form a quorum for the transaction of business, and the Board may employ one or more of their number as paid Director or Directors, provided that no person shall be elected Director unless he owns at least twenty-five shares of the stock of the company on which calls have been paid.



16. No call shall be made for more than ten per centum of any one time on the amount subscribed, nor shall more than fifty per centum of the stock be called up in any one year.

17. The Consolidated Railway Act, eighteen hundred and seventy nine (1879) of Canada, shall, so far as its provisions are applicable to the undertaking and are not inconsistent with or contrary to the provisions of this Act, apply to the said railway and shall be read with and form part of this Act.

18. The words "Superior Court," "Clerks of the Peace," "Registry Offices," "Clerk of Court," as used in the said Consolidated Railway Act, eighteen hundred and seventy nine (1879) shall, for the purposes of this Act, be read and construed in the same sense and meaning as is provided by the Act passed by this Legislature thirty eight (1881) Victoria, chapter thirteen (13), section three (3).

19. Sections five (5) and six (6) of the said last mentioned Act shall be read with and form part of this Act.

20. The said railway line from Esquimalt to Nanaimo shall be commenced forthwith and completed on or before the 10th day of June, 1887.

21. The railway, with its workshops, stations, and other necessary buildings and rolling stock, and also the capital stock of the Railroad Company, shall be exempt from Provincial and Municipal taxation until the expiration of ten years from the completion of the railroad.

22. The lands to be acquired by the company from the Dominion Government for the construction of the railway shall not be subject to taxation, unless and until the same are used by the company for other than railroad purposes, or leased, occupied, sold, or alienated.

23. The company shall be governed by subsection (1) of the heretofore recited agreement, and each bona fide squatter who has continuously occupied, and improved any of the lands within the tract of land to be acquired by the company from the Dominion Government for a period of one year prior to the first day of January, 1883, shall be entitled to a grant of the freehold of the surface rights of the squatted land, to the extent of 160 acres to each squatter at the rate of one dollar an acre.

24. The company shall at all times sell rails gotten from the lands that may be acquired by them from the Dominion Government to any Canadian Railway Company having the terminus of its railway on the seaboard of British Columbia, and to the Imperial, Dominion and Provincial authorities, at the same rates as may be charged to any railway company owning or operating any railway in the United States, or to any foreign customer whatsoever.

25. All lands acquired by the company from the Dominion Government under this Act containing beds of timber fit for milling purposes shall be sold at a price to be hereafter fixed by the Government of the Dominion or by the company hereby incorporated.

26. The existing rights (if any) of any persons or corporations in any of the lands so to be acquired by the company shall not be affected by this Act, nor shall it affect Military or

27. The said Esquimalt and Nanaimo Railway Company shall be bound by any contract or agreement for the construction of the railway from Esquimalt to Nanaimo which shall be entered into by and between the persons so to be incorporated as aforesaid and Her Majesty represented by the Minister of Railways and Canals, and shall be entitled to the full benefit of such contract or agreement which shall be construed and operate in like manner as if such company had been a party thereto in lieu of such persons, and the document had been duly executed by such company under their corporate seal.

28. The railways to be constructed by the company in pursuance of this Act shall be the property of the company.

29. The Act of 1883, Chapter 11, intitled "An Act relating to the Island Railway, the Graving Dock, and the Railway Lands of the Province," is hereby repealed.

VICTORIA, B. C.:

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1913.

